

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

7 Case No. 13-20214
8 Hon. Julian Abele Cook, Jr.

9 LIAM MULHOLLAND,

10 Defendant.

11 /

12 **PLEA**

13 BEFORE THE HONORABLE JULIAN ABELE COOK, JR.

14 United States District Judge
15 Theodore Levin United States Courthouse
16 231 West Lafayette Boulevard
17 Detroit, Michigan
18 Thursday, November 21, 2013

19 APPEARANCES:

20 For the Plaintiff: CATHLEEN M. CORKEN
21 United States of America U.S. Attorney's Office
22 211 W. Fort Street - Suite 2001
23 Detroit Michigan 48226
24 313-226-9100

25 For the Defendant: RANDALL S. LEVINE
26 Liam Mulholland Levine & Levine
27 427 South Burdick Street
28 Kalamazoo, Michigan 49007
29 269-382-0444

30 MATTHEW F. LEITMAN
31 Miller, Canfield, Paddock & Stone
32 840 W. Long Lake Road - Suite 200
33 Troy, Michigan 48098-6358
34 248-267-3294

35 To obtain a copy of this official transcript, contact:
36 Linda M. Cavanagh, Official Court Reporter
37 Theodore Levin United States Courthouse
38 231 West Lafayette Boulevard, Room 235
39 Detroit, Michigan 48226
40 (248) 884-0327 • linda_cavanagh@mied.uscourts.gov

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12 EXHIBITS

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2 Thursday, November 21, 2013

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6 THE CLERK: Court calls Case No. 13-20214, United
7 States of America versus Liam Mulholland.

8 MS. CORKEN: Good morning, Your Honor. Cathleen
9 Corken on behalf of the United States.

10 MR. LEVINE: Good morning, Your Honor. Randall
11 Levine appearing on behalf of Liam Mulholland.

12 MR. LEITMAN: Matthew Leitman also appearing on
13 behalf of Mr. Mulholland.

14 THE COURT: Do I assume that Mr. Mulholland is the
15 gentleman in between?

16 MR. LEVINE: Mr. Mulholland is the gentlemen in
17 between us.

18 THE COURT: It's my understanding that Mr. Mulholland
19 has expressed a desire to offer a plea of guilt to Count 1 of
20 the First Superseding Indictment, is that correct?

21 MS. CORKEN: That's correct, Your Honor.

22 THE COURT: All right. Sir, would you please stand?

23 THE CLERK: Mr. Mulholland, please raise your right
24 hand.

25 | LIAM MULHOLLAND

1 was thereupon called as a witness herein, and after being
2 first duly sworn to tell the truth and nothing but the truth,
3 testified on his oath as follows:

4 DEFENDANT MULHOLLAND: I do.

5 THE CLERK: Please remain standing.

6 THE COURT: Sir, what is your name?

7 DEFENDANT MULHOLLAND: Liam T. Mulholland.

8 THE COURT: Are you the defendant in this case?

9 DEFENDANT MULHOLLAND: Yes, I am.

10 THE COURT: Mr. Mulholland, I have been asked to
11 review and admit into evidence three Government Exhibits. And
12 I perhaps should address my questions to Mr. Levine and Mr. --
13 is it Leitman?

14 MR. LEITMAN: Yes.

15 THE COURT: -- before doing so.

16 Mr. Mulholland, you may have a seat.

17 I have before me two proposed exhibits. One is
18 entitled Rule 11 Plea Agreement. Ms. Crocker has identified
19 this as her Proposed Exhibit No. 1. The second document is
20 entitled Guilty Plea Questionnaire. This has been identified
21 by the Assistant United States Attorney as her Proposed Exhibit
22 No. 2. Do either of you have any objections to the receipt of
23 these documents into evidence?

24 MR. LEVINE: No, Your Honor.

25 MR. LEITMAN: Your Honor, Mr. Levine can speak for

1 our side. He's taking the lead this morning.

2 THE COURT: All right. Madame Clerk, will you share
3 these documents with Mr. Mulholland?

4 (Brief pause)

5 THE COURT: Mr. Mulholland, have you had an
6 opportunity to -- I will ask you to stand. Have you had an
7 opportunity to look at the Government Proposed Exhibit 1 and 2?

8 DEFENDANT MULHOLLAND: Yes, Your Honor.

9 THE COURT: Do your signatures appear on each one of
10 them?

11 DEFENDANT MULHOLLAND: Yes.

12 THE COURT: Did you read each one before you signed
13 it?

14 DEFENDANT MULHOLLAND: Yes.

15 THE COURT: Did you understand what you were reading?

16 DEFENDANT MULHOLLAND: Yes.

17 THE COURT: Did you ask questions of your lawyers
18 about these documents?

19 DEFENDANT MULHOLLAND: Yes.

20 THE COURT: Did they answer questions to your
21 complete satisfaction?

22 DEFENDANT MULHOLLAND: Yes.

23 THE COURT: I will, in the absence of any objections,
24 receive into evidence the Government's Proposed Exhibits 1 and
25 2.

1 I will now ask a series of questions of you, and
2 please give me an answer only if you fully understand the
3 questions and you're able to give me a full, complete and
4 truthful answer. If you do not understand the question or if
5 you do not hear me or if you have any question which, in your
6 opinion, requires some legal advice from your counsel, I
7 recommend that you withhold your response until you have
8 clearance from your counsel. Do you understand that?

9 DEFENDANT MULHOLLAND: Yes, I do, Your Honor.

10 THE COURT: Once again, I'm going to ask you to speak
11 up so we can hear you. I'm having some difficulty in hearing
12 you.

13 Are you here today for the purpose of offering a plea
14 of guilt to violating Title 18 United States Code, Section 844
15 sub-paragraph (1), namely arson?

16 DEFENDANT MULHOLLAND: Yes, I am, Your Honor.

17 THE COURT: You know that any statement by you to me
18 during this proceeding may be used against you in perjury or
19 false statement prosecutions?

20 DEFENDANT MULHOLLAND: Yes, I understand that, Your
21 Honor.

22 THE COURT: How old are you at the present time?

23 DEFENDANT MULHOLLAND: I'm 31 years.

24 THE COURT: Can you read, write and understand the
25 English language?

1 DEFENDANT MULHOLLAND: Yes, I can.

2 THE COURT: And how far did you go in school?

3 DEFENDANT MULHOLLAND: I have a law degree from
4 Indiana University.

5 THE COURT: Have a law degree from?

6 DEFENDANT MULHOLLAND: Indiana university.

7 THE COURT: From Indiana University?

8 DEFENDANT MULHOLLAND: Indiana University.

9 THE COURT: You know that you have a right to have an
10 attorney represent your interests during every legal proceeding
11 before this Court?

12 DEFENDANT MULHOLLAND: Yes, I understand that.

13 THE COURT: Do you know that I will appoint a lawyer
14 to represent your interests in this criminal case if you cannot
15 afford to retain an attorney of your own selection?

16 DEFENDANT MULHOLLAND: Yes, I understand that, Your
17 Honor.

18 THE COURT: Do you know that you have a right to
19 plead not guilty?

20 DEFENDANT MULHOLLAND: Yes, I do, Your Honor.

21 THE COURT: Do you know that you as the defendant in
22 this case are presumed to be innocent until such time as your
23 guilt is determined by a jury or by me in a non-jury trial or
24 your waiver to a trial is accepted by me?

25 DEFENDANT MULHOLLAND: Yes, I understand, Your Honor.

1 THE COURT: Do you know that as a -- do you know that
2 if it is -- let me rephrase that. Is it your desire to give up
3 your right to a trial by jury?

4 DEFENDANT MULHOLLAND: Yes, it is, Your Honor.

5 THE COURT: Is it also your desire to give up your
6 right to a trial without a jury?

7 DEFENDANT MULHOLLAND: Yes, Your Honor.

8 THE COURT: Are you aware that the government would
9 have to prove your guilt beyond a reasonable doubt at trial?

10 DEFENDANT MULHOLLAND: Yes, I'm aware.

11 THE COURT: Do you understand that you have a right
12 to be confronted by all of the witnesses who may be called upon
13 by the government to testify against you?

14 DEFENDANT MULHOLLAND: Yes, Your Honor.

15 THE COURT: Are you aware the government would have
16 to prove your guilt beyond a reasonable doubt during a trial?

17 DEFENDANT MULHOLLAND: Yes, Your Honor.

18 THE COURT: Are you aware that your attorneys will be
19 given an opportunity to cross-examine every witness who may be
20 called upon by the government to testify against you?

21 DEFENDANT MULHOLLAND: Yes.

22 THE COURT: Okay. Are you aware of your right as a
23 defendant to call witnesses on your own behalf?

24 DEFENDANT MULHOLLAND: Yes, I'm aware, Your Honor.

25 THE COURT: You understand that you may use a

1 subpoena for the purpose of obtaining the presence of witnesses
2 to testify on your behalf during a hearing or a trial in this
3 case?

4 DEFENDANT MULHOLLAND: Yes, Your Honor.

5 THE COURT: Do you know that you have a right to
6 remain silent and not to incriminate yourself at any time
7 during this case?

8 DEFENDANT MULHOLLAND: Yes, Your Honor.

9 THE COURT: Are you aware that you're not required to
10 testify at any time in this case unless it is your desire to do
11 so?

12 DEFENDANT MULHOLLAND: Yes, Your Honor.

13 THE COURT: Do you know that the United States
14 Attorney cannot comment upon your election not to take the
15 witness stand in your own defense?

16 DEFENDANT MULHOLLAND: Yes, I'm aware of that.

17 THE COURT: You understand that you have a right to
18 have the jury instructed that no inference of guilt can be
19 assumed by your election not to take the witness stand?

20 DEFENDANT MULHOLLAND: Yes, Your Honor.

21 THE COURT: If you plead guilty, do you know that
22 there will be no trial and that you will give up your right to
23 a trial?

24 DEFENDANT MULHOLLAND: Yes, I'm aware, Your Honor.

25 THE COURT: If you're convicted at a trial, are you

1 aware of your right to appeal the verdict and/or the sentence?

2 DEFENDANT MULHOLLAND: Yes, I'm aware.

3 THE COURT: If your plea of guilt is accepted by me
4 or in the event that you're convicted at the conclusion of the
5 trial, are you aware of the right to receive the services of an
6 attorney who will assist you with your appeal?

7 DEFENDANT MULHOLLAND: Yes.

8 THE COURT: Did your attorney inform you of the
9 nature and elements of the criminal offense to which you are
10 offering a plea of guilty?

11 DEFENDANT MULHOLLAND: Yes, he did.

12 THE COURT: You fully understand the nature and the
13 elements of this criminal offense?

14 DEFENDANT MULHOLLAND: Yes, I do, Your Honor.

15 THE COURT: Has your attorney fully answered all of
16 your questions to your complete satisfaction?

17 DEFENDANT MULHOLLAND: He has, Your Honor.

18 THE COURT: One of the documents that you identified
19 a few moments ago was Government's Proposed Exhibit No. 1
20 entitled Rule 11 Plea Agreement. Do you fully understand every
21 provision within this proposed Rule 11 Plea Agreement?

22 DEFENDANT MULHOLLAND: Yes, I do, Your Honor.

23 THE COURT: I believe that this Rule 11 Plea
24 Agreement contains a provision which indicates that you have
25 given up your right of appeal. Are you aware of that?

1 DEFENDANT MULHOLLAND: Yes, I'm aware, Your Honor.

2 THE COURT: Let me speak to the U.S. Attorney now.

3 Am I correct in assuming that the Rule 11 Plea Agreement, which
4 has been identified as Government Exhibit No. 1, contains a
5 provision wherein Mr. Mulholland has given up his right of
6 appeal?

7 MS. CORKEN: That's correct, Your Honor, under
8 certain circumstances he has.

9 THE COURT: Would you identify the language within
10 Government Exhibit No. 1 which supports that proposition?

11 MS. CORKEN: Yes, Your Honor. Your Honor, that
12 language appears on page 9 in the Rule 11 Agreement in
13 paragraph 9. Would the Court like me to read the language?

14 THE COURT: Yes.

15 MS. CORKEN: Your Honor, the Rule 11 provides in
16 paragraph 9 that, "The defendant waives any right he may have
17 to appeal his conviction. If the sentence imposed does not
18 exceed the maximum of the guideline range determined by
19 Paragraph 2B, defendant also waives any right he may have to
20 appeal his sentence. If the sentence imposed is within the
21 guideline range determined by Paragraph 2B, the government
22 agrees not to appeal the sentence but retains its right to
23 appeal any sentence below that range."

24 THE COURT: Mr. Mulholland, did you hear Ms. Corken's
25 recitation of paragraph 9 on page 9 which appears in Government

1 Exhibit No. 1?

2 DEFENDANT MULHOLLAND: Yes, I did, Your Honor.

3 THE COURT: Does that change your mind about offering
4 a plea of guilt?

5 DEFENDANT MULHOLLAND: No, it does not, Your Honor.

6 THE COURT: You understand that the Rule 11
7 Agreement, which has been identified once again as Government
8 Exhibit No. 1, is only a recommendation to me?

9 DEFENDANT MULHOLLAND: Yes, I understand that, Your
10 Honor.

11 THE COURT: Do you realize I have a right to reject
12 this proposed Rule 11 Agreement?

13 DEFENDANT MULHOLLAND: Yes, I understand that, Your
14 Honor.

15 THE COURT: Do you know if the proposed Rule 11 Plea
16 Agreement is covered by Federal Rule of Criminal Procedure
17 11(c)(1)(A) of the Federal Rule of the Criminal Procedure --
18 strike that. Do you know that if your -- if your proposed Rule
19 11 Plea Agreement is covered by Federal Rule of Criminal
20 Procedure 11(c)(1)(A) or Federal Rule of Criminal
21 Procedure 11(c)(1)(C), it will become binding upon you and the
22 government if and when it is accepted by me?

23 DEFENDANT MULHOLLAND: Yes, Your Honor.

24 THE COURT: Are you aware that I may require you to
25 provide full and complete restitution to any victim of your

1 alleged criminal activity?

2 DEFENDANT MULHOLLAND: Yes, I understand, Your Honor.

3 THE COURT: If your guilty plea is accepted by me, do
4 you know that a special assessment for each count to which your
5 guilty plea applies will also be imposed upon you in addition
6 to any fine and costs?

7 DEFENDANT MULHOLLAND: Yes, Your Honor.

8 THE COURT: I note in this proposed Guilty Plea
9 Questionnaire that it correctly notes that the amount of
10 special assessment will be \$100.

11 DEFENDANT MULHOLLAND: Yes, Your Honor.

12 THE COURT: Ms. Crocker -- Crockett, I'm sorry.

13 MS. CORKEN: It's Corken, Your Honor.

14 THE COURT: Corken. I'll get it right.

15 MS. CORKEN: That's all right.

16 THE COURT: Can you tell me on what the government
17 would rely in this case, what is -- what are the claims against
18 Mr. Mulholland.

19 MS. CORKEN: Yes, Your Honor. The government's
20 evidence in terms of the factual basis, Your Honor?

21 THE COURT: Yes.

22 MS. CORKEN: Your Honor, the government -- if the
23 case were to proceed to trial, the government's evidence would
24 establish that on March 21st of 2003 at about 3:00 o'clock in
25 the morning, the defendant and three other individuals drove to

1 the Mystic Forest Housing Development in Ann Arbor, Michigan.
2 Their purpose on that date was to set fires to homes that were
3 under construction by a development company that intended to
4 sell them. The defendant and the other three individuals had
5 equipped themselves with gasoline, gallon jugs and old clothing
6 purchased from a secondhand store that they would discard after
7 the arsons.

8 Once the defendant and the three others arrived at
9 the Mystic Forest Housing Development, the defendant dispersed
10 gasoline throughout a home that was under construction located
11 at 3755 Birch Run. A fire was then lit at that site using the
12 gallon jugs filled with gasoline.

13 Another participant in the arson spray painted a
14 message at the site that read "ELF - No Sprawl." ELF stands
15 for Earth Liberation Front and is an environmental extremist
16 movement.

17 The fire department responded to the scene and
18 extinguished the fire, which completely destroyed the home. An
19 arson investigation subsequently determined that the fire had
20 been deliberately set and that gasoline had been used as an
21 accelerant.

22 THE COURT: Was the property salvaged?

23 MS. CORKEN: No, Your Honor, it was completely
24 destroyed.

25 THE COURT: Mr. Mulholland, you heard Ms. Corken's

1 recitation of what, in her opinion, the government would be
2 able to prove against you if this matter went to trial?

3 DEFENDANT MULHOLLAND: Yes, it's accurate.

4 THE COURT: Is there anything that she said with
5 which you disagree?

6 DEFENDANT MULHOLLAND: No, Your Honor.

7 THE COURT: Tell me in your own words what you did.

8 DEFENDANT MULHOLLAND: Um, on the night in question,
9 myself and three other people drove out to the development site
10 where homes were under construction.

11 THE COURT: Drove out to where?

12 DEFENDANT MULHOLLAND: To the housing development
13 where these homes were under construction. On our way there,
14 we purchased gasoline at a fueling station and proceeded to the
15 site. Once there, I sprayed gasoline throughout one of the
16 homes and a fire was lit.

17 THE COURT: What was your purpose in visiting that
18 site?

19 DEFENDANT MULHOLLAND: Um, we were, you know -- I
20 was -- we were going to believe, in association with people and
21 beliefs, um, that we were preventing harm to the environment.
22 Yes, the purpose was to burn the house, to destroy the home.

23 THE COURT: And in what way do you believe that
24 spreading the gasoline at or around the site would enhance the
25 environment?

1 DEFENDANT MULHOLLAND: Um, it was a cause, or the
2 motivation was to stop urban development sprawl and to
3 farmlands and forested areas, and so that was -- that was the
4 motivation.

5 THE COURT: Did you make any effort prior to visiting
6 the -- the site to persuade the housing development to -- not
7 to proceed with their development?

8 DEFENDANT MULHOLLAND: No. I -- honestly, I was
9 visiting, and it was one of the elder members of the group
10 suggested it and I kind of just went along with this plan.

11 THE COURT: What was suggested?

12 DEFENDANT MULHOLLAND: Um, that -- that we go out and
13 set fire to some homes that were under construction in areas
14 that they deemed that were environmentally sensitive areas.

15 THE COURT: If you had been successful, what purpose
16 would setting the fire have done?

17 DEFENDANT MULHOLLAND: You know, Your Honor, I've had
18 many years to think about this and, you know -- and I don't see
19 good that come -- you know, that came out of it or -- I was a
20 different person, so I don't think my actions would have
21 changed anything.

22 THE COURT: Do you have a license to practice law?

23 DEFENDANT MULHOLLAND: No, Your Honor.

24 THE COURT: Have you taken the bar exam?

25 DEFENDANT MULHOLLAND: Yes, I have.

1 THE COURT: Are you awaiting results?

2 DEFENDANT MULHOLLAND: I did pass.

3 THE COURT: Do you know that or do you have any
4 reason to expect that the matter that brings you into court
5 today will have an adverse effect upon your ability to practice
6 law?

7 DEFENDANT MULHOLLAND: Um, it may, yes. I actually
8 withdraw -- withdrew my application after I received my
9 results, but when I was indicted I contacted the Board of
10 Admissions to let them know that I had been indicted.

11 THE COURT: That you had what?

12 DEFENDANT MULHOLLAND: That I had been indicted for
13 these crimes.

14 THE COURT: Looking back on it, you spent a lot of
15 time in preparing for law school and a lot of time to work your
16 way through the classes at the law school. Do you believe that
17 you have accomplished your purpose in setting fire?

18 DEFENDANT MULHOLLAND: No, Your Honor.

19 THE COURT: Looking back on it, do you have any
20 regrets about it?

21 DEFENDANT MULHOLLAND: Every day.

22 THE COURT: On page 5 of the Guilty Plea
23 Questionnaire, you wrote "On March 21, 2003, I participated in
24 the arson of a home under construction in the Mystic" -- is
25 that "Forest"?

1 MR. LEVINE: Yes, Your Honor.

2 THE COURT: -- "housing development in Ann Arbor,
3 Michigan. Additional details are contained within the plea
4 agreement." Is that your statement?

5 DEFENDANT MULHOLLAND: Yes, it is, Your Honor.

6 THE COURT: Was it true when you wrote it?

7 DEFENDANT MULHOLLAND: Yes.

8 THE COURT: Is it true now?

9 DEFENDANT MULHOLLAND: Yes, it is.

10 THE COURT: Are you also aware that I, in seeking to
11 determine the appropriate sentence in this case, have an
12 obligation to examine and review the applicable sentencing
13 guideline range, any possible departures under the sentencing
14 guidelines and such other sentencing factors that may be
15 applicable under Title 18 United States Code, Section 3553(a).

16 DEFENDANT MULHOLLAND: Yes, I'm aware.

17 THE COURT: Ms. Corken, would you advise Mr.
18 Mulholland of the maximum incarceration that I can impose on
19 him and any fine that I can impose upon him if I accept his
20 offer?

21 MS. CORKEN: Yes, Your Honor. Your Honor, the
22 maximum term of imprisonment for arson is 20 years. There is a
23 mandatory minimum of five years. The maximum fine is \$250,000.
24 And the supervised release term, the maximum is three years.

25 THE COURT: Did you hear her recitation of the

1 maximum penalties that I can impose upon you?

2 DEFENDANT MULHOLLAND: Yes, Your Honor.

3 THE COURT: Does that change your mind about offering
4 a plea of guilty?

5 DEFENDANT MULHOLLAND: No, it does not, Your Honor.

6 THE COURT: You know if your guilty plea is accepted
7 by me, it could result in the revocation of any presently
8 existing probation or parole?

9 DEFENDANT MULHOLLAND: Yes, Your Honor, I understand.

10 THE COURT: You understand the law requires me to
11 impose a term of supervised release upon the completion of your
12 imprisonment if you're placed in custody more than one year or
13 a term of supervised release is required by a specific statute?

14 DEFENDANT MULHOLLAND: Yes, I understand, Your Honor.

15 THE COURT: Are you also aware that if you violate a
16 condition of supervised release upon the completion of your
17 imprisonment and you're placed in custody for more than one
18 year or the term of supervised release is required by -- let me
19 read that again please.

20 You understand that the law requires me to impose a
21 term of supervised release upon the completion of your
22 imprisonment if you're placed in custody for more than one year
23 or if a term of supervised release is required by a specific
24 statute?

25 DEFENDANT MULHOLLAND: Yes, I understand, Your Honor.

1 THE COURT: Are you aware that if you violate a
2 condition of supervised release, your supervised release may be
3 revoked and followed by a term of imprisonment, or you may be
4 permitted to continue on supervised release without an
5 extension of the terms or modification of its conditions?

6 DEFENDANT MULHOLLAND: Yes, Your Honor.

7 THE COURT: Is your plea of guilt being offered today
8 freely and voluntarily?

9 DEFENDANT MULHOLLAND: Yes, it is, Your Honor.

10 THE COURT: Have you been induced or persuaded to
11 offer this plea of guilt because of any statement or
12 representation by anyone that you would be treated with
13 leniency by me only if you offered a plea of guilty?

14 DEFENDANT MULHOLLAND: No, Your Honor.

15 THE COURT: Have you been induced or persuaded to
16 offer this plea of guilt because of any threat, undue
17 influence, duress or promise?

18 DEFENDANT MULHOLLAND: No, Your Honor.

19 THE COURT: On or about the 21st of March, 2003, had
20 you consumed any illegal drugs, medication or alcohol or
21 controlled substance?

22 DEFENDANT MULHOLLAND: Yes, Your Honor.

23 THE COURT: And what was that?

24 DEFENDANT MULHOLLAND: Marijuana, Your Honor.

25 THE COURT: And when was the -- with regard to the --

1 the date of your travel to the Ann Arbor place, when did you
2 consume the marijuana?

3 DEFENDANT MULHOLLAND: Um, within a 24-hour period.

4 THE COURT: Do you believe that your consumption of
5 the marijuana on or about the -- the March 2003 date tended to
6 impair your ability to know the difference between right and
7 wrong?

8 DEFENDANT MULHOLLAND: No, Your Honor.

9 THE COURT: Do you know of anything that would
10 prevent you today from comprehending the nature as well as the
11 consequences of the criminal charges that have been placed
12 against you?

13 DEFENDANT MULHOLLAND: No, Your Honor.

14 THE COURT: Do you know of anything that would
15 prevent you from fully understanding the -- all of the
16 questions that I've asked you today?

17 DEFENDANT MULHOLLAND: No, Your Honor.

18 THE COURT: Have you provided me with full, complete
19 and truthful answers to my questions?

20 DEFENDANT MULHOLLAND: Yes, I have, Your Honor.

21 THE COURT: Is your plea of guilt being offered today
22 because you believe it to be in your best interests?

23 DEFENDANT MULHOLLAND: Yes, Your Honor.

24 THE COURT: Are you asking me to accept your
25 admission of guilt?

1 DEFENDANT MULHOLLAND: Yes, I am, Your Honor.

2 THE COURT: After reflecting upon the answers that
3 you've given to me, you now offer a plea of guilt to the charge
4 of arson as found in Title 18 United States Code, Section 844
5 sub-paragraph (1)?

6 DEFENDANT MULHOLLAND: Yes, Your Honor.

7 THE COURT: Have you thoroughly understood all of the
8 questions that I've asked you today?

9 DEFENDANT MULHOLLAND: Yes, I have, Your Honor.

10 THE COURT: Ms. Corken, do you have any questions of
11 Mr. Mulholland?

12 MS. CORKEN: I do not, Your Honor. Is the Court at
13 some point going to want the government to put the material
14 provisions of the Rule 11 on the record?

15 THE COURT: Yes.

16 MS. CORKEN: Okay. Thank you. Excuse me, I didn't
17 know you wanted me to do that now.

18 THE COURT: Yes.

19 MS. CORKEN: Very good. Your Honor, as you know, the
20 defendant has agreed to plead guilty to Count 1 of the First
21 Superseding Indictment.

22 The Rule 11 also sets forth his agreement to relevant
23 conduct and to a stipulated offense.

24 In exchange for the defendant's plea, the government
25 will dismiss the remaining counts of the First Superseding

1 Indictment, that is, Counts 2, 3 and 4.

2 In addition, the government will not bring additional
3 charges against the defendant based on any of the conduct
4 reflected in the sentencing guideline worksheets that are
5 attached to the Rule 11.

6 The government agrees that it will seek a downward
7 departure at sentencing under 18 USC 3553(e) which provides
8 that the Court may then impose a sentence below the mandatory
9 minimum of five years. The government's motion will also be
10 under Section 5K1.1 of the sentencing guidelines which provides
11 for a departure from the sentencing guideline range all based
12 on the defendant's cooperation.

13 The defendant agrees that he will not seek a greater
14 departure for his cooperation than recommended by the
15 government. He can, however, seek a downward variance from the
16 sentencing guideline range based on the 3553(a) factors other
17 than based on his cooperation.

18 The defendant acknowledges that the reduction, if
19 any, in a sentence is up to the Court.

20 Absent the applicability of the statutory mandatory
21 minimum sentence, Your Honor, the parties agree that the
22 sentencing guideline range is from 30 to 37 months. As we
23 heard when I recited paragraph 9 of the agreement, the sentence
24 may not exceed the 37 months, the top of the guideline range,
25 and the defendant's entitled to withdraw his guilty plea if the

1 sentence exceeds that amount.

2 The defendant agrees to pay restitution in the amount
3 of \$757,615; excuse me, \$757,615.

4 He agrees to pay the special assessment.

5 There is no agreement on the amount of fine, if any.

6 And there is no agreement on the length of supervised
7 release.

8 THE COURT: Were there any injuries sustained as a
9 result of this fire?

10 MS. CORKEN: No, Your Honor.

11 THE COURT: Does the amount that you've just
12 identified compensate or fully compensate the property owners,
13 the loss?

14 MS. CORKEN: It does, Your Honor.

15 THE COURT: Mr. Levine, do you have any questions of
16 your client?

17 MR. LEVINE: I do not, Your Honor.

18 THE COURT: Do you believe that the elements of the
19 offense have been established?

20 MR. LEVINE: I have, Your Honor. I think the parties
21 would stipulate that the materials that were used in the
22 construction of the homes moved in interstate commerce.

23 THE COURT: I will accept the offer of guilt by the
24 defendant, Liam Mulholland.

25 MR. LEVINE: Thank you, Your Honor.

1 THE COURT: However, I will reserve judgment on the
2 acceptance of the Rule 11 Plea Agreement. Mr. Mulholland, I
3 will direct you to return to this courtroom on Tuesday,
4 March 18, 2014 at 10:00 o'clock in the morning. At that time I
5 will advise you as to whether I will or will not accept your
6 offer of guilt and will also accept -- and whether I will
7 accept the proposed Rule 11 Plea Agreement. If, for any
8 reason, I do not accept the guilty plea or in the event that I
9 do not accept the proposed Rule 11 Plea Agreement, a new trial
10 will be set for March 25, 2014 at 8:30 in the morning.

11 Ms. Corken, what is the bond in this matter?

12 MS. CORKEN: Your Honor, the defendant is on his own
13 personal recognizance. I believe there's a \$10,000 unsecured
14 bond.

15 THE COURT: I assume, Mr. Levine, you have no
16 objection?

17 MR. LEVINE: That's correct, Your Honor.

18 THE COURT: All right. That bond will be continued.
19 Would you assume the responsibility of seeing that
20 your client is taken to the Probation Department?

21 MR. LEVINE: I will, Your Honor.

22 THE COURT: Okay. Do you have any questions, Ms.
23 Corken?

24 MS. CORKEN: I do not, Your Honor.

25 THE COURT: Mr. Levine, do you have any questions?

1 MR. LEVINE: I have no questions, Your Honor. But if
2 it please the Court, I just wanted to take a moment to clarify
3 what my understanding of part of the Rule 11 Agreement is
4 because there is a certain amount of -- there could be a
5 certain amount of confusion.

6 THE COURT: And what would that be?

7 MR. LEVINE: I just wanted to -- to indicate that Ms.
8 Corken intends to move for the downward departure of below the
9 guideline range based on Mr. Mulholland's substantial
10 assistance, so the 37-month range is going to be reduced.

11 And nothing in the agreement will preclude Mr.
12 Mulholland from seeking a variance, which Ms. Corken mentioned,
13 under 18 3553(a) for reasons such as post-offense
14 rehabilitation. The only limitation he has on that variance
15 would be he cannot go beyond the -- the levels of -- he cannot
16 base it on his cooperation because that will have been taken
17 into account by the -- by the government's motion.

18 So I know it's in there, but it has caused my client
19 a certain amount of confusion. I just wanted to make that
20 clear.

21 THE COURT: Is that accurate?

22 MS. CORKEN: That's accurate, Your Honor. That is
23 accurate.

24 THE COURT: All right. Are you satisfied?

25 MR. LEVINE: I am, thank you.

1 THE COURT: Okay. Anything further at this point?

2 MS. CORKEN: Nothing from the government, Your Honor.

3 THE COURT: Mr. Levine?

4 MR. LEVINE: No, Your Honor.

5 THE COURT: Thank you. Good luck to you. I'll see
6 you in March.

7 MR. LEVINE: Yes.

8 MS. CORKEN: Thank you, Your Honor.

9 (Whereupon proceedings were concluded at 10:24 a.m.)

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C E R T I F I C A T I O N

I, Linda M. Cavanagh, Official Court Reporter of the
United States District Court, Eastern District of Michigan,
appointed pursuant to the provisions of Title 28, United States
Code, Section 753, do hereby certify that the foregoing pages 1
through 27 comprise a full, true and correct transcript taken
in the matter of United States of America vs. Liam Mulholland,
Case No. 13-20214, on Thursday, November 21, 2013.

s/Linda M. Cavanagh
Linda M. Cavanagh, CSR 131, RPR, CM, CRR
Federal Official Court Reporter
United States District Court
Eastern District of Michigan

16 Date: February 19, 2014
Detroit, Michigan